

BEFORE THE BOARD OF NURSING
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

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|------------------------------------|---|--------------------------|
| In the matter of the proposed |) | NOTICE OF PUBLIC HEARING |
| amendment of ARM 8.32.305, |) | ON PROPOSED AMENDMENT |
| educational requirements and other |) | |
| qualifications applicable to |) | |
| advanced practice registered |) | |
| nursing, ARM 8.32.307, clinical |) | |
| nurse specialist practice, |) | |
| ARM 8.32.801, application for |) | |
| initial approval, ARM 8.32.807, |) | |
| special reports, ARM 8.32.1504, |) | |
| initial application requirements |) | |
| for prescriptive authority, and |) | |
| ARM 8.32.1506 special limitations |) | |
| related to the prescribing of |) | |
| controlled substances |) | |

TO: All Concerned Persons

1. On March 30, 2005, at 9:00 a.m., a public hearing will be held in room 489 of the Park Avenue Building, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Nursing no later than 5:00 p.m., March 24, 2005, to advise us of the nature of the accommodation that you need. Please contact Andy Carter, Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2340; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdnur@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

8.32.305 EDUCATIONAL REQUIREMENTS AND OTHER QUALIFICATIONS APPLICABLE TO ADVANCED PRACTICE REGISTERED NURSING (1) through (3) remain the same.

~~(a) After July 1, 2005, the board will not recognize newly certified psychiatric CNSs who provide medical diagnoses and treatments. Individuals intending to practice in this manner will be required to be certified as psychiatric nurse practitioners. Those psychiatric mental health CNSs certified in Montana prior to July 1, 2005 will continue to be recognized in Montana.~~

~~(b) Psychiatric CNSs certified in a state other than Montana prior to July 1, 2005, may be recognized in Montana.~~

(4) and (5) remain the same.

AUTH: 37-1-319, 37-8-202, MCA
IMP: 37-8-202, 37-8-409, MCA

8.32.307 CLINICAL NURSE SPECIALIST PRACTICE (1) remains the same.

~~(2) For the psychiatric clinical nurse specialist certified before July 1, 2005, the practice of that clinical nurse specialist also includes the independent and collaborative practice of psychiatric nursing and management of expert level psychiatric nursing care to individuals or groups of individuals. The practice requires the integration of clinical knowledge with clinical practice, and may include pharmacological management.~~

AUTH: 37-8-202, MCA
IMP: 37-8-202, MCA

REASON: It is reasonable and necessary to delete subsections (a) and (b) in ARM 8.32.305(3) and to delete 8.32.307(2) because following adoption of these sunset provisions phasing out recognition of the newly certified Psychiatric-Clinical Nurse Specialists (P-CNSs) and requiring Psychiatric-Nurse Practitioners (P-NPs) certification instead, the Board received information from professional associations of both psychiatric clinical nurse specialists and psychiatric nurse practitioners that the two certifications are equivalent. Based on the new evidence, the Board proposes to reverse its prior decision to phase out recognition of newly certified P-CNSs. It is necessary to do so now before the sunset provisions take effect on July 1, 2005. It is reasonable and necessary to supplement the citations to the Board's rulemaking authority and implementation statutes.

8.32.801 APPLICATION FOR INITIAL APPROVAL (1) An educational institution wishing to establish a program in nursing and to secure initial approval shall submit to the board, ~~at least two calendar years in advance of expected opening date, a statement of intent to establish a program in nursing. Any exceptions must be approved by the full board. a feasibility study by either December 1 or September 1 for review at the board's January or October, respectively, board meetings. For programs under the jurisdiction of the Montana board of regents, a common document shall be submitted.~~

(2) ~~The feasibility study is required at least one calendar year before the expected implementation date and must include at least the following information:~~

(a) through (i) remain the same.

(3) ~~When the data submitted in the feasibility study are reviewed, the board may request additional information and may conduct a site visit to evaluate the information submitted as the board may deem necessary. The board will review the feasibility study at their January or October board meeting.~~

(4) through (5)(b) remain the same.

(c) For programs under the jurisdiction of the Montana board of regents, the board will make a recommendation to the Montana board of regents concerning the quality of the proposed program's curriculum, faculty and clinical experiences and will make its final decision on approval only after receiving notification of the program's approval from the board of regents. The program may then admit students who shall be eligible upon completion of the program to take the licensing examination.

(6) Between six months and one year following the feasibility study, the board shall review and conduct a site visit utilizing the initial application and feasibility study for the proposed program, and may grant initial approval following board review. Any communications from the board must be sent to the program director and the leadership of the parent institution. ~~The program may then admit students who shall be eligible upon completion of the program to take the licensing examination.~~

(7) remains the same.

(8) Following graduation of the first class, a self-study report of compliance with ARM Title 8, chapter 32, subchapter 11, shall be submitted and a site visit ~~shall~~ may be made, ~~for consideration of full approval of the program.~~

~~(9) Only materials received at least 30 days before the next scheduled board meeting will be considered by the board.~~

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-202, 37-8-301, 37-8-302, MCA

REASON: Both the Montana Board of Regents (Regents) and the Montana Board of Nursing (Board) have review and approval functions relating to proposed nursing education programs and program changes proposed by schools of nursing within the Montana University System (MUS). The Board also has a review and approval function relating to nursing education programs proposed by private and tribal colleges in Montana such as Carroll College and Salish-Kootenai College which are not part of MUS. The Regents requested that the Board work with it to coordinate and streamline the review and approval processes and minimize duplications of effort. The Regents also preferred that the Board make a recommendation to it regarding a proposed nursing education program's curriculum, faculty qualifications, and clinical experiences before the Regents take their final action on a program proposal. The proposed amendments are the product of discussions between the boards. The proposed amendments eliminate the excessive and unnecessary two-year lead-time for submittal of letters of intent prior to the proposed implementation date for a program. The amendments also coordinate submittal dates for program proposals with Regents' meeting dates to facilitate orderly processing of proposals.

8.32.807 SPECIAL REPORTS (1) through (1)(b) remain the same.

~~(c) significant change in faculty composition or size;~~
~~(d) significant change in teaching affiliations including, but not limited to, clinical affiliations or partnerships;~~

~~(e) (c) significant changes in enrollment by 10 or more students, progression and graduation rates and other program outcome indicators;~~

(f) through (i) remain the same but are renumbered (d) through (g).

~~(i) (h) any expansion defined by the board. requiring one or more of the following:~~

~~(i) the addition of two or more faculty to the program;~~

~~(ii) the addition of clinical experiences at the medical settings currently used by the program;~~

~~(iii) the addition of clinical experiences at medical settings used by the program, but using nontraditional times or nontraditional instructional methods;~~

~~(iv) the reallocation of internal funds that require a reduction in other academic program budgets.~~

~~(2) The board will review the special reports at their January or October board meetings. For programs under the jurisdiction of the Montana board of regents, the board will make a recommendation to the Montana board of regents concerning the substantive change. If the board does not complete its review and recommendations in January or October, it shall do so at its next quarterly meeting.~~

(2) through (4) remain the same but are renumbered (3) through (5).

~~(5) (6) Fourteen copies of the special report must be sent to the board office for distribution to board members and staff. The special report will be considered by the board at the first regularly scheduled meeting that occurs more than 29 days following receipt of the special report at the board office. No further information will be considered by the board if not submitted at least 30 days before the meeting.~~

(6) through (9) remain the same but are renumbered (7) through (10).

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-301, 37-8-302, MCA

REASON: The amendments are necessary to clarify the types and magnitudes of changes to existing nursing education programs which require prior approval of the Board. In the past there has been confusion in that regard. The proposed amendment also coordinates the Board of Regents' and the Board of Nursing's review and approval of substantive changes to nursing education programs.

8.32.1504 INITIAL APPLICATION REQUIREMENTS FOR PRESCRIPTIVE AUTHORITY (1) through (1)(c) remain the same.

(d) a description of the method of referral and documentation in client records, ~~in accordance with ARM 8.32.1507~~; and

(e) through (2) remain the same.

AUTH: 37-8-202, MCA

IMP: 37-8-202, MCA

REASON: It is reasonable and necessary to amend this rule because it contains an internal reference to a rule that was previously repealed.

8.32.1506 SPECIAL LIMITATIONS RELATED TO THE PRESCRIBING OF CONTROLLED SUBSTANCES (1) through (3) remain the same.

~~(4) An APRN shall not prescribe refills of controlled substances unless the refill prescription is in writing.~~

AUTH: ~~37-1-131~~, 37-8-202, MCA

IMP: 37-8-202, MCA

REASON: It is reasonable and necessary to delete section (4) of this rule because it is redundant. Refilling prescriptions for controlled substances is covered under the more comprehensive rule 8.32.1505(4)(a). It is reasonable and necessary to supplement the citations to the Board's rule making authority.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdnur@mt.gov, and must be received no later than 5:00 p.m., April 7, 2005.

5. An electronic copy of this Notice of Public Hearing is available through the Department's and Board's site on the World Wide Web at <http://www.nurse.mt.gov>. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The Board of Nursing maintains a list of interested persons who wish to receive notices of rulemaking actions

proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Nursing administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdnur@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

8. Lorraine Schneider, attorney, has been designated to preside over and conduct this hearing.

BOARD OF NURSING
KAREN POLLINGTON, RN, PRESIDENT

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State February 14, 2005.